

In the Office Action, the Examiner rejected claims 3, and 34-37 under 35 U.S.C. § 112, first paragraph and claims 1, 34, and 36-37 under 35 U.S.C. § 102(e) as being anticipated by Mason (U.S. Pat. No. 5,584,495). Applicant respectfully traverses the rejections and reconsideration is hereby requested.

Specifically, the Examiner rejected claims 3, and 34-37 under 35 U.S.C. § 112, first paragraph as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains or with which is most nearly connected to make and/or use the invention. Applicant respectfully traverses this rejection and reconsideration is hereby requested.

Applicant would like clarification of the record as the rejections under 35 U.S.C. § 112, first paragraph were withdrawn in the Advisory Action of October 30, 2001 of Paper 14, however, the rejections reappear in the present Office Action. It appears the rejections may be inadvertent duplications from a previous Office Action. Accordingly, Applicant requests that the record be clarified in this matter. However, if the rejections are not inadvertent duplications, Applicant respectfully traverses the rejections as follows.

In the rejection the Examiner states, "claim 3 recites a tubular sock at receiver towing hitch. Applicant does not show this embodiment with the added limitations in Claim 1 which Claim 3 depends from." Applicant respectfully submits that Claim 3 is fully supported by the specifications and figures.

"The purpose of Section 112, first paragraph is to ensure that there is an adequate disclosure of the invention for which patent rights are sought The written description must communicate that which is needed to enable the skilled artisan to make and use the

claimed invention.” *Kennecott Corp. v. Kyocera International, Inc.*, 835 F.2d 1419,
5 U.S.P.Q. 2d 1194 (Fed. Cir. 1987), cert. denied, 486 U.S. 1008 (1988).

Applicant respectfully directs the Examiner to the following portions of the
specification which contains a written description that communicates what is needed for a
skilled artisan to make and use the claimed invention.

“The mounting portion may take any suitable form dictated by
the form of the towing hitch and its environs on the vehicle.
Preferably, the mounting portion is secured to the vehicle by
the hitch assembly or a portion thereof, whereby the step
apparatus may be fixed to existing vehicles. Alternatively, the
mounting portion may be formed integrally with the vehicle or
hitch assembly.” (Specification at 1-2, lines 26-28, and lines
1-4, respectively)

A person of ordinary skill in the art would recognize from at least the foregoing
written description that claim 3 is fully supported by the foregoing written description. For at
least this reason, the disclosure of the application as originally filed conveys that the inventor
had possession of the claimed subject matter. Accordingly, Applicant respectfully requests
the Examiner to withdraw the rejection of Claim 3 under 35 U.S.C. § 112, first paragraph as
the claim is fully supported by the specification and figures.

In rejecting Claims 36 and 37, the Examiner stated “the limitation of being adapted to
be locked. The only locking mechanism disclosed has nothing to do with the folding step
recited in Claim 1.” Applicant respectfully directs the Examiner to page 7 of the
Specification, which recites:

“The embodiments of figure 5 and 6 are particularly suitable
for providing a **lockable arrangement** whereby the step
assembly 67 were unlocked and its deployed position serves to
prevent the hitching or unhitching of towed vehicles. For
example, lug 73 may be configured to extend along the inner
surface of one or more of support lug 66, whereby a drilling
through adjacent lug 73 and support lug 66 may provide

passage for locking bolt or padlock which retains the step assembly 67 in its deployed position.” (Emphasis added)

One of ordinary skill in the art would have recognized their support in the written description as originally filed for the subject matter Claims 36 and 37. Specifically, referring to the disclosure above in Figures 5 and 6, a skilled artisan would recognize that the locking mechanism is associated with a folding step, as recited in Claim 1. Figure 5 explicitly shows a step that is hinged and can be folded. Accordingly, Applicant submits that the claims are in full compliance with 35 U.S.C. 112, first paragraph.

The Examiner rejected Claims 1, 34 and 36-37 under 35 U.S.C. § 102(e) as being anticipated by Mason. Applicant respectfully traverses this rejection and reconsideration is hereby requested.

Independent Claim 1 is allowable over Mason in that Claim 1 recites a combination of elements including, for example, “a step portion hinged to the mounting portion whereby the step portion may be moved from a first position where the step portion is disposed above the vehicle hitch and usable with or without the hitch being in use, to a second, stowed position.” The Examiner alleges that “Mason shows, Figure 2, a trailer hitch locking assembly with an upper receiver 26 (step, step portion) which has a first and second position as it is pivotally secured (hinged) to the mounting plate 12. There is a mounting aperture 14 which allows assembly to be secured to the vehicle. The closed position does not allow the hitch to leave or enter the assembly once locked.”

Claim 1 does not require a portion of the step to be forward of a portion of the vehicle hitch. Instead, claim 1 requires that the step in its entirety may be moved to a second stowed position adjacent to a rear portion of a vehicle and forward of the hitch. Claim 1 requires that the step portion may be moved from a first position where the step portion is disposed

above the vehicle hitch (and by implication not adjacent to a rear portion of a vehicle and not forward of the hitch) to a second stowed position adjacent to a rear portion of a vehicle and forward of the hitch. The implication is that the step portion must move in a forward direction to stow, which the apparatus of Mason clearly does not.

The step apparatus recited by claim 1 has specific advantages in the field that would be apparent to one of skill in the art as was as the casual user of the equipment. The apparatus of Mason is deployed to the side when not in use, a position in which the apparatus is prominent and available to cause injury to persons working near the rear of the vehicle. On the contrary, the step apparatus recited by claim 1 is specifically disposed forward of the hitch in the stowed position and is thus out of the way.

In contradistinction to the Examiner's allegations, Mason does not teach or suggest a step portion as recited in Claim 1. Even assuming *arguendo*, that the upper receiver 26 is a step portion, Mason is still inadequate as it does not teach or suggest the step portion in a first position above the vehicle hitch and a second stowed position forward of the hitch. In addition, Mason does not teach or disclose a step portion that can be used with or without the hitch being used. For at least these reasons, the Examiner has not established a *prima facie* case of anticipation because the reference does not teach each and every element as set forth in claim 1. Accordingly, Applicant respectfully submits that claim 1 and dependent claims 34-37, which depend from claim 1 are allowable over the cited reference.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to

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complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 624-1250 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

Respectfully submitted,

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